



House of Representatives

General Assembly

File No. 459

February Session, 2018

House Bill No. 5537

House of Representatives, April 12, 2018

The Committee on Planning and Development reported through REP. LEMAR of the 96th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING SHARED SOLAR FACILITIES AND MUNICIPAL AIRPORTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2018*) (a) As used in this
2 section:

3 (1) "Authority" means the Public Utilities Regulatory Authority, as
4 defined in section 16-1 of the general statutes, as amended by this act;

5 (2) "Bill credit" means the credit to a subscriber calculated pursuant
6 to subsection (k) of this section;

7 (3) "Electric distribution company" has the same meaning as
8 provided in section 16-1 of the general statutes, as amended by this act;

9 (4) "Host subscriber" means a municipal airport;

10 (5) "Individual billing meter" means an individual electric meter or a
11 set of electric meters, when such meters are combined for billing

12 purposes, within the service territory of the subscriber's electric
13 distribution company;

14 (6) "Municipal airport shared solar facility" means electricity
15 derived from solar power that is a Class I renewable energy source, as
16 defined in section 16-1 of the general statutes, as amended by this act,
17 that (A) is served by an electric distribution company, as defined in
18 section 16-1 of the general statutes, as amended by this act, (B) is
19 within the same electric distribution company service territory as the
20 individual billing meters for subscriptions, (C) has a nameplate
21 capacity rating of two megawatts or less, (D) has at least two
22 subscribers, and (E) is located on a municipal airport;

23 (7) "Municipal airport shared solar facility credit" means a credit
24 equal to the retail cost per kilowatt hour that the subscriber would
25 have otherwise been charged by the electric distribution company that
26 services the territory where the subscriber is located, including, but not
27 limited to, the generation service charges, transmission and
28 distribution charges and any other charges, as determined by the
29 authority;

30 (8) "Municipal airport shared solar pilot program" means the
31 program established pursuant to subsection (b) of this section;

32 (9) "Subscriber" means an in-state retail end user of an electric
33 distribution company who (A) has contracted for a subscription, and
34 (B) has identified an individual billing meter to which the subscription
35 shall be attributed;

36 (10) "Subscriber organization" means a municipality that (A) owns
37 or operates one or more clean energy facilities for the benefit of the
38 subscribers, or (B) contracts with a host subscriber to build, own or
39 operate one or more clean shared energy facilities; and

40 (11) "Subscription" means a beneficial use of a municipal airport
41 shared solar facility, including, but not limited to, a percentage interest
42 in the total amount of electricity produced by such facility or a set

43 amount of electricity produced by such facility.

44 (b) The Commissioner of Energy and Environmental Protection
45 shall establish a two-year municipal airport shared solar pilot program
46 to support the development of municipal airport shared solar facilities.
47 On or before July 1, 2019, the commissioner shall develop and issue a
48 request for proposals from subscriber organizations with a population
49 of not less than one hundred twenty-eight thousand and not more than
50 one hundred thirty-five thousand, seeking to develop a municipal
51 airport shared solar facility. The commissioner shall select, pursuant to
52 the request for proposals, a municipal airport shared solar facility.

53 (c) After a municipal airport shared solar facility is selected
54 pursuant to subsection (b) of this section, the subscriber organization
55 shall determine the methodology for calculating the billing credit for
56 any subscriber of such municipal airport shared solar facility that may
57 be issued through the electric distribution company's monthly billing
58 systems.

59 (d) The authority may revise the methodology determined pursuant
60 to subsection (c) of this section at any time if the authority concludes
61 that such revision is in the public interest and (1) the existing
62 methodology does not provide subscribers with the fair value of
63 electricity produced by a municipal airport shared solar facility based
64 on the benefits of such facility, or (2) such methodology results in a net
65 shifting of costs to nonparticipating ratepayers. After concluding that
66 such revision shall be made, the authority shall initiate a proceeding to
67 develop a new methodology to calculate the billing credit. Such
68 methodology shall be based on the costs and benefits to the electric
69 distribution companies, customers of such companies and the
70 economic conditions for operating shared clean energy facilities, as
71 defined in section 16-243p of the general statutes, interconnected to the
72 electric power grid. The authority may use the outcome of any
73 proceeding that comprehensively addresses the costs and benefits of
74 renewable distributed generation that includes municipal airport
75 shared solar facilities to inform the authority's revisions to the

76 methodology.

77 (e) A subscriber organization (1) shall determine the price paid for a
78 subscription, (2) shall comply with the consumer protection provisions
79 pursuant to subsections (n) to (p), inclusive, of this section and all
80 applicable state and federal securities and tax laws, and shall be
81 responsible for all liability and any costs resulting from noncompliance
82 with any such provisions, (3) shall not sell subscriptions totaling more
83 than one hundred per cent of the electricity produced by a municipal
84 airport shared solar facility, (4) shall, each quarter, either itself or
85 through a designated agent, provide the following information about
86 each subscriber to the electric distribution company, as required to
87 credit such subscribers: (A) The name, address, account number and
88 meter number or numbers, and (B) the subscription percentage or
89 amount, (5) may update its subscribers not more than once per quarter,
90 and (6) may request that the electric distribution company bill
91 subscribers on behalf of the subscriber organization, provided the
92 subscriber organization shall pay the company's costs associated with
93 billing and collection from subscribers, pursuant to approval by the
94 authority.

95 (f) A subscriber shall not have a subscription for more than one
96 hundred per cent of such subscriber's own electric consumption, based
97 on such subscriber's previous twelve months of energy usage.

98 (g) An electric distribution company may (1) require that a
99 municipal airport shared solar facility and its subscribers have their
100 meters read on the same billing cycle, and (2) seek recovery for any
101 costs associated with the administration of the municipal airport
102 shared solar facility.

103 (h) If the capacity of a municipal airport shared solar facility is not
104 fully subscribed, the host subscriber shall be credited the remaining
105 bill credits.

106 (i) The owner or operator of a municipal airport shared solar facility
107 shall follow all procedures for interconnection pursuant to section 16-

108 243a of the general statutes.

109 (j) The owner of the municipal airport shared solar facility shall be
110 responsible for the installation of a revenue quality production meter
111 at such facility. Such owner shall compensate the electric distribution
112 company for such company's reasonable costs to interconnect the
113 facility to such company's electric grid. The amount of electricity
114 generated each month by such facility and available for allocation shall
115 be determined by such meter. The electric distribution company shall
116 read such meter.

117 (k) Each billing month, a subscriber may be eligible for a bill credit.
118 The bill credit shall be calculated for each subscriber by multiplying
119 the quantity of kilowatt hours allocated to such subscriber by the
120 municipal airport shared solar facility credit, less any deductions
121 agreed to by the subscriber that shall be paid by the electric
122 distribution company to the subscriber organization, or third-party
123 entity, for operations and maintenance purposes on behalf of the
124 subscriber. The amount of any such agreed to deductions shall be held
125 in escrow or trust account on behalf of the subscribers and shall not be
126 the property of the subscriber organization, electric distribution
127 company or any third-party entity. If the value of the bill credit
128 allocated to the subscriber exceeds the amount owed by such
129 subscriber to the electric distribution company, as shown on such
130 subscriber's bill at the end of the billing period, the remaining value of
131 such bill credit shall carry over from month to month until the value of
132 any remaining bill credit is used. If the value of the bill credit allocated
133 to the subscriber is less than the amount owed by the subscriber to the
134 electric distribution company as shown on such subscriber's bill at the
135 end of the applicable billing period, the subscriber shall be billed for
136 the difference between the amount shown on the bill and the value of
137 the available bill credit.

138 (l) A subscriber organization, a subscriber or any third-party entity
139 that owns or operates a municipal airport shared solar facility shall not
140 own or operate electric distribution services, as defined in section 16-1

141 of the general statutes, as amended by this act.

142 (m) Except for the price for the subscription in subdivision (1) of
143 subsection (e) of this section, the authority may adopt regulations, in
144 accordance with chapter 54 of the general statutes, to implement the
145 provisions of subsections (a) to (l), inclusive, of this section.

146 (n) Any entity selling or reselling a subscription in a municipal
147 airport shared solar facility, prior to the sale or resale of any such
148 subscription, shall provide a disclosure to any potential subscriber that
149 shall include, but not be limited to: (1) A good faith estimate of the
150 annual kilowatt hours to be delivered by the municipal airport shared
151 clean energy facility, based on subscription size; (2) a plain language
152 explanation of the terms under which bill credits will be calculated,
153 including, but not limited to, a plain language explanation of the
154 municipal airport shared solar facility credit; (3) a plain language
155 explanation of the proposed contract provisions regulating the
156 disposition or transfer of the subscription; and (4) a plain language
157 explanation of the costs and benefits to the potential subscriber and all
158 assumptions used therein for the term of the proposed contract, based
159 on the subscriber's current usage and applicable tariff.

160 (o) A subscriber shall receive bill credits if the municipal airport
161 shared solar facility continues to generate and provide power to the
162 electric power grid, regardless of any bankruptcy or contractual
163 default of any subscriber, subscriber organization or third-party entity
164 owner or operator of the municipal airport shared solar facility.

165 (p) Upon a showing that additional requirements are necessary to
166 protect existing or potential subscribers, the authority may adopt
167 regulations, in accordance with chapter 54 of the general statutes, to
168 implement the provisions of subsections (n) and (o) of this section.

169 (q) This section shall not be construed to limit any other rights or
170 obligations a subscriber may have related to the provision of electric
171 service and delivery of electricity by the electric distribution company
172 or the provision of a subscription by the subscriber organization, third-

173 party entity that owns a municipal airport shared solar facility or other
 174 entity as provided by, but not limited to, any tariff, decision of the
 175 authority or federal or state statute.

176 Sec. 2. Subsection (c) of section 15-120j of the general statutes is
 177 repealed and the following is substituted in lieu thereof (*Effective*
 178 *October 1, 2018*):

179 (c) Notwithstanding the provisions of subsections (a) and (b) of this
 180 section, [Runway 2-20 of the airport shall not exceed the existing paved
 181 runway length of five thousand six hundred linear feet] Runway 14-32
 182 shall be closed.

183 Sec. 3. Section 16-1 of the general statutes is amended by adding
 184 subsection (d) as follows (*Effective October 1, 2018*):

185 (NEW) (d) A subscriber organization, as defined in section 1 of this
 186 act, shall not be deemed to be an electric distribution company or an
 187 electric supplier solely by virtue of the fact that such subscriber
 188 organization owns or operates or contracts with a third party to build,
 189 own or operate a municipal airport shared solar facility, as defined in
 190 section 1 of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2018</i>	New section
Sec. 2	<i>October 1, 2018</i>	15-120j(c)
Sec. 3	<i>October 1, 2018</i>	16-1

PD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 19 \$	FY 20 \$
Department of Energy and Environmental Protection	GF - Cost	Approximately 50,000	None

Note: GF=General Fund

Municipal Impact: See Below

Explanation

The bill requires the Department of Energy and Environmental Protection (DEEP) to establish a two-year solar pilot program allowing customers to contract for a portion of the power generated by a solar-powered electricity generating facility located on a municipal airport. It also requires DEEP to issue a request for proposals (RFP) from New Haven.

The bill would result in costs to DEEP of approximately \$50,000 in FY 19 for issuance of the RFP.

The bill establishes three different ways for determining how billing credits under the program must be calculated. As it is unclear which billing credit calculations apply, it is not certain how this provision impacts the state and municipalities as ratepayers.

The Out Years

There is no ongoing fiscal impact as the cost for the RFP occurs only in FY 19.

OLR Bill Analysis**HB 5537*****AN ACT CONCERNING SHARED SOLAR FACILITIES AND MUNICIPAL AIRPORTS.*****SUMMARY**

This bill requires the Department of Energy and Environmental Protection (DEEP) commissioner to establish a two-year, municipal airport-shared solar pilot program to help develop municipal airport-shared solar facilities. Broadly, the program would allow customers to subscribe (i.e., contract) for a portion of the power generated by a solar-powered electricity generating facility located on a municipal airport. The subscriber's portion of the electricity produced at the facility would offset the subscriber's electric costs at another billing meter (e.g., a customer who subscribes for 100 kilowatts hours (kWh) of power generated at the facility would be charged for 100 kWh less usage at his or her residence).

The bill requires the commissioner to issue a request for proposals from a subscriber organization (i.e., municipality) that:

1. has a population between 128,000 and 135,000;
2. (a) owns or operates at least one clean energy facility to benefit its subscribers or (b) contracts with a municipal airport to build, own, or operate one or more clean shared energy facilities; and
3. wants to develop a municipal airport shared solar facility.

It establishes certain requirements and limitations for the subscriber organization and subscribers and also requires entities selling subscriptions to meet certain consumer protection-related requirements. The bill also establishes three different ways for determining how the billing credits under the program must be

calculated (but it is unclear which way must apply).

Lastly, the bill (1) eliminates a provision that limits Tweed-New Haven Airport's Runway 2-20 to 5,600 linear feet in length and (2) requires the airport's Runway 14-32 to be closed.

EFFECTIVE DATE: October 1, 2018

DEFINITIONS

The bill defines the following terms:

1. "municipal airport-shared solar facility" is electricity derived from Class I solar power source that (a) is located on a municipal airport, (b) has a nameplate (i.e., generating) capacity of two megawatts or less, (c) is served by an electric distribution company (EDC; i.e., Eversource or United Illuminating), (d) has at least two subscribers, and (e) is within the same EDC service territory as the individual billing meters for subscriptions;
2. "subscriber" is an EDC's in-state, retail end user who (1) contracted for a subscription and (2) identified an individual billing meter to which the subscription must be attributed;
3. "subscription" is a beneficial use of a municipal airport shared solar facility, including a percentage interest in the total amount of electricity the facility produces or a set amount of electricity produced by the facility; and
4. "individual billing meter" is located within the service territory of the subscriber's EDC and is (a) an individual electric meter or (b) a set of electric meters combined for billing purposes.

DEEP REQUEST FOR PROPOSALS

The bill requires the DEEP commissioner to establish a two-year, municipal airport-shared solar pilot program to support the development of municipal airport shared solar facilities. It requires the commissioner, by July 1, 2019, to develop and issue a request for proposals (RFP) from subscriber organizations with a population

between 128,000 and 135,000 seeking to develop a municipal airport shared solar facility. He must select a facility under the RFP.

SUBSCRIBER ORGANIZATION REQUIREMENTS

Under the bill, a subscriber organization (presumably the one selected in DEEP's RFP) must determine the price of subscriptions and comply with the bill's consumer protection provisions and all applicable state and federal securities and tax laws. It must be responsible for all liability and costs resulting from noncompliance with these provisions. The bill prohibits the organization from selling subscriptions totaling more than 100% of the electricity produced by a municipal airport-shared solar facility.

The bill requires the organization to quarterly provide, on its own or through a designated agent, the EDC with each subscriber's name; address; account number; meter number or numbers; and subscription percentage or amount. The organization may (1) update its subscribers once per quarter and (2) ask the EDC to bill subscribers on the organization's behalf, as long as the organization pays the EDC's costs associated with billing and collecting from subscribers, as approved by PURA.

The bill allows an EDC to (1) require a facility and its subscribers to have their meters read on the same billing cycle and (2) seek recovery for any costs associated with administering the facility (but does not specify from whom and by what means the EDC may recover these costs).

It prohibits a subscriber organization, subscriber, or any third-party that owns or operates a municipal airport-shared solar facility from owning or operating electric distribution services.

Subscribers

The bill prohibits a subscriber from having a subscription for more than 100% of the subscriber's own electric consumption, based on the subscriber's previous 12 months of energy usage.

BILLING CREDITS

The bill establishes three ways for determining how the billing credits under the program must be calculated and applied to subscribers: (1) subscriber organization-determined credit, (2) PURA-determined credit, or (3) credits determined under the bill. It is unclear which should apply, however.

Subscriber Organization-Determined Credit

Once the commissioner selects a facility under the RFP, the bill requires the subscriber organization to determine the methodology for calculating the billing credit that any subscriber to the facility may be issued through the EDC's billing systems.

PURA-Determined Credit

The bill allows PURA to revise the subscriber organization-determined method for calculating credits at any time if it concludes that the revision is in the public interest and the existing methodology (1) does not provide subscribers with the fair value of electricity produced by the facility or (2) results in a net cost shift to non-participating ratepayers. (Since the bill does not require the subscriber organization to submit its methodology to PURA for approval, it is unclear how PURA may come to this conclusion.)

If PURA concludes that it must make such a revision, the bill requires it to open a proceeding to develop a new method to calculate the billing credit, based on the costs and benefits to EDCs and their customers and the economic conditions for operating shared clean energy facilities connected to the electric power grid as defined in statute. (The bill's reference to a statutory definition is unclear, as the referenced section does not define "shared clean energy facilities" or the economic conditions for operating them.) PURA may use the outcome of any proceeding that comprehensively addresses the costs and benefits of renewable distributed generation and includes municipal airport-shared solar facilities to inform its revisions to the methodology.

Billing Credits under the Bill

The bill also explicitly states how the bill credits must be calculated for each subscriber. It requires them to be calculated by multiplying the subscriber's allocated kilowatt hours by the municipal airport-shared solar facility credit (i.e., the full retail electric rate otherwise applicable to the subscriber, as determined by PURA). For example, if a subscriber subscribed for 100 kWh of the shared solar facility's output, the subscriber's electric bill would receive a credit for 100 times the applicable retail electric rate on his or her electric bill (essentially, the subscriber would be billed as if he or she had used 100 kWh less of electricity).

The bill also allows a subscriber to agree to have the credit reduced by any deductions that the EDC would pay, on the subscriber's behalf, to the subscriber organization or a third-party entity for its operations and maintenance purposes. These deductions must be held in escrow or a trust account on the subscriber's behalf and must not be the property of the subscriber organization, EDC, or any third-party.

Under the bill, if the credit's value exceeds the amount that the subscriber owes to his or her EDC (i.e., he or she used less power than the facility generated for his or her allotment), as shown on the subscriber's bill at the end of the billing period, the remaining credit value must carry over from month to month until the value of any remaining bill credits are used. If the credit's value is less than the subscriber owes, then the subscriber must be billed for the difference.

Under the bill, if the facility's generating capacity is not fully subscribed, the facility's host airport must be credited with any remaining credits.

Facility Meters and Interconnection

The bill makes the facility's owner responsible for installing a revenue quality production meter at the facility. The owner must compensate the EDC for its reasonable costs to interconnect the facility with the company's electric grid. The meter must determine the

amount of electricity generated by the facility each month and available for allocation. The EDC must read the meter.

Under the bill, the facility's owner or operator must follow the interconnection procedures established by PURA under existing law.

PURA Regulations

The bill allows PURA to adopt regulations to implement any of the above provisions on DEEP's RFP, subscriber organization requirements, and billing credits, but not subscription prices.

CONSUMER PROTECTION PROVISIONS

The bill requires any entity selling or reselling subscriptions to a municipal airport-shared solar facility to provide a disclosure to any potential subscriber before the sale or resale. The disclosure must include a good faith estimate of the annual kWh to be delivered by the facility, based on subscription size, and plain language explanations of the:

1. terms under which bill credits will be calculated, including a plain language explanation of the municipal airport-shared solar facility credit (i.e., the EDC's otherwise applicable retail electric rate);
2. proposed contract provisions regulating the subscription's disposition or transfer; and
3. potential subscriber's costs and benefits, and all assumptions used in the proposed contract, based on the subscriber's current usage and applicable tariff (i.e., rates).

The bill requires a subscriber to receive bill credits if the facility continues to generate and provide power to the electric grid, regardless of any bankruptcy or contractual default of any subscriber, subscriber organization, or third-party owner or operator of the facility. (It appears that this would allow a subscriber to default on his or her subscription contract and still receive billing credits.)

Under the bill, upon a showing that additional requirements are needed to protect existing or potential subscribers, PURA may adopt regulations to implement the above consumer protection provisions. (The bill does not specify who must show the need to protect subscribers or how they must do so.)

OTHER PROVISIONS

The bill specifies that it does not limit any other rights or obligations a subscriber may have related to (1) the EDC's provision and delivery of electric service or (2) the provision of a subscription by a subscriber organization, third party entity that owns a facility, or other entity, under any tariff, PURA decision, or state or federal law.

Under the bill, a subscriber organization must not be deemed to be an EDC or an electric supplier (thus, exempting it from being regulated as an EDC or electric supplier) solely because it owns or operates, or contracts with a third-party to build, own, or operate a municipal airport-shared solar facility.

BACKGROUND

Related Bills

sSB 9, favorably reported by the Energy and Technology Committee, requires EDCs to conduct annual solicitations to purchase energy and renewable energy certificates from certain renewable energy facilities that could include shared clean energy facilities similar to a municipal airport-shared solar facility.

SB 336, favorably reported by the Energy and Technology Committee, requires the DEEP commissioner to establish a statewide shared clean energy program.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable

Yea 14 Nay 8 (03/26/2018)